



1712

Attorney Docket No.: 57457-020  
**PATENT**

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re Application of	:	
	:	Customer No.20277
John K. HOWARD	:	
	:	Confirmation No.: 8970
Serial No.: 10/068,853	:	
	:	Group Art Unit: 1631
Filed: February 11, 2002	:	Examiner: ARDIN H. MARSCHEL
	:	
For: METHOD AND APPARATUS FOR DETECTING DNA HYBRIDIZATION	:	

**ELECTION UNDER 35 U.S.C. § 121**

Mail Stop Amendment  
Hon. Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

In response to the restriction requirement set forth in the Office Action mailed June 10, 2004, having a shortened statutory period for response set to expire July 10, 2004, wherein the Examiner required restriction between the following distinct Species:

**First Invention:**

**Species A** - Invention embodiments wherein first and second reference voltage signals are specifically a capability to be generated and received by a differential amplifier or wherein an output signal representing the difference is generated;

**Species B** - Invention embodiments wherein first and second reference voltage signals are "not" specifically a capability to be generated and received by a differential amplifier or wherein an output signal representing the difference is generated.

Second Invention:

**Species C** - Claim embodiments wherein the known DNA sample has a highly negative charged molecule attached thereto; and

**Species D** - Claim embodiments wherein the known DNA sample is not required to have a highly negative charged molecule attached thereto.

Applicant elects without traverse, **Species A**, claims 1-14, with regard to the first invention, and **Species C**, claims 1-19, 22 and 24, with regard to the second invention, for initial prosecution on the merits.


Applicant also reserves the right to file a Divisional Application for the non-elected claims, which the Examiner has indicated is patentably distinct.

Applicant believes that no extension of time is required. However, this conditional petition is being made to provide for the possibility that Applicant has inadvertently overlooked the need for a petition for extension of time. The Commissioner is hereby authorized to charge any additional fees associated with this communication or credit any overpayment to Deposit Account No. 50-0417. A duplicate copy of this Response is enclosed for accounting purposes.

Respectfully submitted,

McDERMOTT, WILL & EMERY

Date: 6/9/04

By:   
Michael E. Fogarty  
Registration No.: 36,139

600 13<sup>th</sup> Street, N.W., Suite 1200  
Washington, DC20005-3096  
Telephone: 202 756 8000  
Facsimile: 202 756 8087